

ORIGINAL

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

2013 MAY 17 AM 10:11

DUBLIN DIVISION

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SO. DIST. OF GA.

MANUEL GALLEGOS-MEDINA,)
)
Plaintiff,)
)
v.) CV 313-017
)
WALT WELLS, Warden, et al.,)
)
Defendants.)

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Manuel Gallegos-Medina, an inmate at McRae Correctional Institution in McRae, Georgia, commenced the above-captioned civil rights case *pro se* and requested permission to proceed *in forma pauperis* ("IFP"). On February 25, 2013, the Court directed Plaintiff to return his Prisoner Trust Fund Account Statement and Consent to Collection of Fees forms within thirty (30) days and advised Plaintiff that all prisoners, even those proceeding IFP, must pay the filing fee of \$350.00 in full. 28 U.S.C. § 1915(b)(1). Plaintiff was cautioned that failure to respond would be an election to have this case voluntarily dismissed without prejudice. (See doc. no. 3.) On March 15, 2013, Plaintiff submitted a second motion for leave to proceed IFP and a Prisoner Trust Fund Account Statement, but he failed to submit a signed Consent to Collection of Fees form. (See doc. nos. 4, 5.)

On April 23, 2013, the Court ruled that Plaintiff's duplicative motion to proceed IFP was moot and granted Plaintiff fourteen (14) additional days to comply with the terms of the Court's February 25th Order by submitting a signed Consent to Collection of Fees form.

(See doc. no. 6.) Once again, Plaintiff was warned that his failure to comply in a timely fashion with the Court's Order would result in a recommendation that his case be dismissed. The time to respond has passed, and Plaintiff has not submitted a Consent to Collection of Fees form as required by the Court's February 25th Order, nor has he provided the Court with any explanation as to why he has not done so.

Plaintiff cannot proceed IFP unless he submits the requisite Trust Fund Account Statement and consents to the collection of the entire \$350.00 filing fee in installments. Wilson v. Sargent, 313 F.3d 1315, 1319, 1321 (11th Cir. 2002) (*per curiam*) (citing 28 U.S.C. § 1915). Plaintiff has been warned repeatedly that failing to return the necessary IFP papers would be an election to have his case voluntarily dismissed. As Plaintiff has neither fulfilled the requirements for proceeding IFP, nor paid the filing fee, the Court **REPORTS** and **RECOMMENDS** that this case be **DISMISSED**, without prejudice.

SO REPORTED and RECOMMENDED this 17th day of May, 2013, at Augusta, Georgia.


W. LEON BARFIELD
UNITED STATES MAGISTRATE JUDGE